

REMARKS

This is intended as a full and complete response to the Final Office Action dated September 6, 2007, having a shortened statutory period for response set to expire on December 6, 2007. Applicants submit this response to place the application in condition for allowance or in better form for appeal. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-20 are pending in the application. Claims 1-20 remain pending following entry of this response.

Claim Rejections - 35 U.S.C. § 102

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by *Serkin et al.* (U.S. Patent Application Publication 2003/0229567 hereinafter "*Serkin*"). Applicant respectfully traverses this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In this case, *Serkin* fails to teach each and every element set forth in the claim. For example, in claim 1 *Serkin* fails to teach a computer-implemented method for dynamically scaling order processing in a securities exchange that includes "monitoring a volume of orders related to the security received at the securities exchange." Nor does *Serkin* teach a computer implemented method that includes "varying the number of books maintained for the security based on the monitored volume of orders." Instead, *Serkin* discloses that an "administrator" may manually adjust the configuration of a system adjust the number of "securities processors." Specifically, the passage cited by the Examiner regarding the "monitoring" and the "varying" steps provides:

Since additional securities processors can be added to system 10 to accommodate higher trade volumes, computerized trading system 10 is scalable. For example, if administrator 62 decided that the load level of all six securities processors were too high and, therefore, reassigning securities from one securities processor to another would not free up any bandwidth, a seventh securities processor can be added to system 16. This new securities processor would be given a unique address or identifier and look-up table 50 would be modified so that one or more securities are assigned to this newly added securities processor.

Serkin, ¶ 47. Clearly, this passage describes an administrator making a decision to vary the number of securities processors based on load levels. However, nothing in this passage discloses a computer implemented method which performs a step of actively "monitoring a volume of orders related to the security received at the securities exchange," and "varying the number of books maintained for the security based on the monitored volume of orders," as recited by claim 1. Instead, it describes an administrator adding a "securities processor" to a system "to accommodate higher trade volumes."

Thus, at best, *Serkin* teaches that it is possible for the administrator to assign securities to various processors, possibly taking into consideration current trading volume. Applicant submits, therefore, that *Serkin* does not teach a computer implemented method that includes monitoring a volume of orders related to the security received at the securities exchange. Nor does *Serkin* teach a computer implemented method that includes varying the number of books maintained for the security based on the monitored volume of orders.

Further, *Serkin* fails to teach the limitations recited by dependent claim 8. Claim 8 further characterizes the monitoring step recited by claim 1, and specifies that the step of monitoring the volume of orders related to the security received at the exchange comprises dividing the total volume of orders related to the security received at the exchange by the number of books maintained for the security. The Examiner argues that *Serkin* further teaches this step at *Serkin*, ¶ 31, 45-57. However, these paragraphs describe in a general sense, distributing securities among securities processors based on volume. However, nowhere does *Serkin* describe any method for monitoring the

volume, and in particular monitoring the volume by dividing the total volume of orders by the total number of books.

The Examiner rejects claims 12 and 17 suggesting that "Claims 12 and 17 are in parallel with claim 1 and are rejected for at least the same reason as set forth above (see also paragraphs 67 and 68). Final Office Action, p. 7. However, the discussion above regarding claim 1 is even more forceful when considering the particular limitations of claims 12 and 17. Claim 12 teaches a computer-readable medium containing a *program* for dynamically scaling order processing in a securities exchange which, when executed by a processor performs operations comprising monitoring a volume of orders related to the security received at the securities exchange and vary the number of books maintained for the security based on the monitored volume of orders. That is, the operations of *the program* include monitoring and varying actions, as recited by claim 12. As stated above, *Serkin* describes the ability of an administrator to vary the number of "securities processors" based on load levels. However, nowhere does *Serkin* describe an *executable program* that monitors a volume of orders related to the security received at the securities exchange and varies the number of books maintained for the security based on the monitored volume of orders.

Claim 17 teaches a memory containing an executable component, which when executed on the processor is configured to monitor a volume of orders related to the security received by the securities exchange, and configured to vary the number of books maintained for the security based on the monitored volume of orders. As stated above, *Serkin* describes the ability of an administrator to vary the number of "securities processors" based on load levels, but nowhere does *Serkin* describe monitoring a volume of orders and varying the number of books based on the monitored volume by an executable component. At best, *Serkin* teaches the use of an executable component that includes a securities lookup process which allocates securities to their designated processor. *Serkin* does not disclose that the allocation process takes into consideration monitored volume of orders, or that the allocation exchange varies the number of books based on volume.

Therefore, claims 1, 12, 17, and their dependents are believed to be allowable, and allowance of the claims is respectfully requested.

Conclusion

Having addressed all issues set out in the office action, Applicant respectfully submits that the claims are in condition for allowance and respectfully request that the claims be allowed.

If the Examiner believes any issues remain that prevent this application from going to issue, the Examiner is strongly encouraged to contact Gero McClellan, attorney of record, at (336) 643-3065, to discuss strategies for moving prosecution forward toward allowance.

Respectfully submitted, and
S-signed pursuant to 37 CFR 1.4,

/Gero G. McClellan, Reg. No. 44,227/

Gero G. McClellan
Registration No. 44,227
PATTERSON & SHERIDAN, L.L.P.
3040 Post Oak Blvd. Suite 1500
Houston, TX 77056
Telephone: (713) 623-4844
Facsimile: (713) 623-4846
Attorney for Applicant